



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-BC-2020-05**
The Prosecutor v. Salih Mustafa

Before: **Pre-Trial Judge**
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 29 April 2021

Language: English

Classification: **Public**

Order for Communication of Unredacted Version of Evidentiary Material

Specialist Prosecutor
Jack Smith

Counsel for the Accused
Julius von Bóné

THE PRE-TRIAL JUDGE,¹ pursuant to Article 39(13) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 95(2)(b) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

I. PROCEDURAL BACKGROUND

1. On 9 October 2020, the Pre-Trial Judge issued the "Framework Decision on Disclosure of Evidence and Related Matters" ("Framework Decision on Disclosure"), according to which, *inter alia*, the Pre-Trial Judge shall receive the evidence as disclosed to the receiving Party in non-redacted form.² This mechanism is designed to verify, at the Pre-Trial Judge's discretion, the validity of any redactions applied by the disclosing Party and, if necessary, order the latter to lift, partially or fully, any redactions, after hearing from the disclosing Party.³

2. On 5 March 2021, the Pre-Trial Judge set the date for the transmission of the case file to the Trial Panel, pursuant to Rule 98 of the Rules, on or around Friday, 7 May 2021.⁴

II. DISCUSSION

3. The Pre-Trial Judge observes that the SPO has not yet communicated to the Pre-Trial Judge the unredacted version of the evidentiary material disclosed under Rules 102(1)(b),⁵ 102(3) and 103 of the Rules, as stipulated by the Framework Decision on Disclosure. Considering the advanced stage of the pre-trial

¹ KSC-BC-2020-05, F00001, President, *Decision Assigning a Pre-Trial Judge*, 14 February 2020, public.

² KSC-BC-2020-05, F00034, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters* ("Framework Decision on Disclosure"), 9 October 2020, public, paras 84, 90(o).

³ Framework Decision on Disclosure, para. 84

⁴ KSC-BC-2020-05, Transcript of Hearing, 5 March 2021 ("5 March 2021 Transcript"), p. 203, lines 4-6.

⁵ This does not pertain to material that has been disclosed to the Pre-Trial Judge in unredacted form under Rule 102(1)(a) of the Rules.

proceedings⁶ and the upcoming date for transmission of the case file to the Trial Panel, the Pre-Trial Judge orders the SPO to comply with the abovementioned terms of the Framework Decision on Disclosure by Thursday, 6 May 2021.

III. DISPOSITION

4. For the above reasons, the Pre-Trial Judge hereby **ORDERS** the SPO to communicate to the Pre-Trial Judge, by **Thursday, 6 May 2021**, the unredacted version of the evidentiary material disclosed under Rules 102(1)(b), 102(3) and 103 of the Rules, in conformity with paragraph 84 of the Framework Decision on Disclosure.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Thursday, 29 April 2021
At The Hague, the Netherlands.

⁶ 5 March 2021 Transcript, p. 184, line 23 to p. 185, line 2.